COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department of Telecommunications and Energy on its own Motion into the Appropriate Pricing, based upon Total Element Long-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and the Appropriate Avoided Cost Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts' Resale Services in the Commonwealth of Massachusetts	D.T.E. 01-20

AT&T'S OPPOSITION TO VERIZON'S MOTION TO COMPEL

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Introduction.

On May 29, 2001, ten business days after receiving some 258 discovery requests from Verizon, AT&T responded to all but two of those requests, and since then it has responded to the other two.[1] Six weeks later, in a letter dated June 18, 2001, Verizon for the first time asserted that certain of AT&T's responses were inadequate in specified ways. AT&T reviewed the specific complaints by Verizon and on July 3 provided supplemental responses to satisfy many of them, but reiterated that several of the groups of requests reiterated by Verizon were unduly burdensome, sought irrelevant information, and were not reasonably calculated to lead to the discovery of admissible evidence. Verizon filed a motion to compel on July 5, encompassing not only the requests previously discussed but also twenty-one additional discovery requests about which Verizon had not previously raised specific, substantive concerns.

[1] The answer to VZ-ATT 1-113 was provided on June 13, 2001. AT&T sought clarification of the one remaining question, but Verizon never responded to the request for clarification. In addition, AT&T provided further, supplemental responses to nine Verizon requests on July 3, 2001.

Verizon's discovery tactics are now clear. Neither Verizon's requests to AT&T nor its motion to compel are a meaningful effort to obtain critical information. Instead, they are a transparent attempt to divert the Department's attention from the real issues in this case, and to force AT&T to divert scarce litigation resources to dealing with discovery disputes that have no meaningful connection to the real issues in this proceeding. Throughout its motion, Verizon tries to transmogrify entirely appropriate discovery responses by AT&T into purported evidence that AT&T is obstructing the Department's evaluation of the HAI 5.2a-MA Model, while simultaneously resisting relevant discovery about its own cost study submission. Verizon is also attempting to use the discovery process to harass and impose substantial and undue burden upon AT&T for no legitimate reason. Verizon's motion to compel is without merit, and AT&T respectfully urges the Department to deny it in total.

Argument.

I. AT&T'S NETWORK IS NOT AT ISSUE IN THIS CASE, INFORMATION RELATING TO IT IS IRRELEVANT, AND IT WOULD BE UNDULY BURDENSOME TO RESPOND TO VERIZON'S EXPANSIVE INFORMATION REQUESTS ABOUT IT.

Verizon challenges AT&T's objections to providing information regarding AT&T's own network. *See Verizon's Motion to Compel* at 5-9. Verizon asked a lengthy series of 32 questions, many with elaborate subparts, asking for detailed information about recent equipment purchases by AT&T and other information regarding investments in or the capacity of AT&T's long distance network. AT&T properly objected on the ground that the requests are overbroad, unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence.

None of the requested information about AT&T's network is relevant here. This proceeding is concerned with the modeling of a forward-looking local services network under the FCC's TELRIC methodology. Because AT&T does not have a forward-looking local

services network in place, information regarding AT&T's network cannot possibly be of any relevance to the issues in this case or to Verizon's evaluation of the HAI model. Tellingly, Verizon has not sought similar information from any other party in this docket. Verizon is trying to tie up AT&T's limited resources in fruitless discovery exercises.

Furthermore, finding and gathering the information sought by Verizon in these requests would be tremendously burdensome. AT&T does not have this information readily available, and does not have resources available to gather or create it on Verizon's whim.

The Department should also take note of Verizon's patent hypocrisy, as Verizon takes inconsistent positions depending upon whether it is seeking or resisting discovery.

For example, on July 2, 2001, Verizon objected to CC-VZ 10-9. That request asked whether "any of Verizon's current plant-in-service [is in use] beyond the economic lives [Verizon] proposes for depreciation in this case." Verizon objected, asserting that the request "is not reasonably calculated to lead to the discovery of admissible evidence" because Verizon's "historical plant-in-service does not form the basis of the forward-looking TELRIC investments underlying the UNE studies at issue in this proceeding." If Verizon's own existing network is not relevant to this case, it is hard to see how AT&T's network could possibly be relevant. To be clear: even though information about Verizon's existing network will often be relevant to this proceeding, especially given Verizon's heavy reliance in its own cost studies on historical information regarding its embedded costs, information about particular facets of AT&T's network is not at all relevant.

More recently, in a letter dated July 10, 2001, Verizon again refused to provide information about its own network requested in ATT-VZ 14-10, 14-11, 14-14, and 14-15. The first two of these questions asked Verizon to provide the details for the ten largest hardwired and

plug-in (respectively) equipment installations in Massachusetts that are reflected in the 1998 DCPR data used to developed the EF&I factor used in Verizon's cost studies. The second two sought similar information regarding the ten largest installations in each category that underlie Verizon's power factors. Thus, these requests seek information regarding recent equipment purchases by Verizon in order to be able to test the validity of data actually relied upon and used by Verizon in its own cost studies. In its letter, Verizon asserts that:

> [T]he DCPR compiles only summary data associated with material price and total installed cost. Accordingly, providing 'details' about the installations would require a time-consuming search of paper and electronic documents to identify the individual projects and to develop additional information about those installations.

See July 10, 2001, letter from Bruce Beausejour to Ken Salinger (Attachment A hereto).

Thus, Verizon asserts that it is just too burdensome for it to gather and provide information regarding specific investments in its own network, and refuses to do so even when that data is actually used in Verizon's own cost studies. But it has the temerity at the same time to file a motion seeking to compel AT&T to undertake far more burdensome and extensive investigations to develop information about AT&T's network, despite the fact that this data is not used in the HAI 5.2a-MA model. These requests are inappropriate, and no further response should be required.

II. VERIZON'S DEMAND FOR INFORMATION ABOUT MODELS NOT FILED IN THIS PROCEEDING, OR EVER FILED IN MASSACHUSETTS, IS IMPROPER.

A. Earlier Versions Of The HAI Model Have No Relevance To This Proceeding, and It Would Be Unduly Burdensome for AT&T to Gather the Information Sought Regarding Old Models Used Over the Past Five Years.

Verizon also seeks to compel further responses to eleven information requests that asked AT&T to gather and provide information regarding earlier versions of the Hatfield Model. *See Verizon's Motion to Compel* at 9-11. In these questions Verizon asked AT&T to compare the HAI 5.2a-MA model filed in this proceeding with old, superceded models filed in prior years in

California, New Jersey, New York, Pennsylvania, Vermont, or anywhere else. *Id.* AT&T answered all substantive questions regarding elements of the HAI 5.2a-MA model itself, but properly objected to demands that it categorize any and all ways in which this model differs from older relatives.

The simple fact is that prior versions of the HAI model are not at issue in the present docket, and therefore Verizon's requests are inappropriate and seek irrelevant information. AT&T is only sponsoring the model filed in this proceeding; other models filed at other times and in other jurisdictions are simply not relevant.

Furthermore, Verizon's requests seek information that is not readily available, and would take a burdensome special study to compile. AT&T does not have the resources to devote to compiling information that does not concern the merits of the issues in this proceeding.

B. Verizon's Invocation of "Reasoned Consistency" Is Absurd, Both Legally and Factually.

Verizon tries to circumvent the patent irrelevance of its requests for information about old models not at issue in this proceeding by invoking the principle of "reasoned consistency." Verizon wrongly asserts that:

> [Information regarding old versions of the HAI model] is particularly important in Massachusetts because the Department has reviewed and rejected an earlier version of the Hatfield model and precedent requires "reasoned consistency" by the Department. *Boston Gas Company v. Department of Public Utilities*, 367 Mass. 92, 104 (1975). Absent a full a detailed comparison between the rejected model and the "new and improved" version that has supposedly been presented in this proceeding, the Department must again reject the model. Accordingly, information regarding the similarities, or differences, between the predecessor versions of the model is both relevant and essential to a thorough evaluation of the HAI 5.2a-MA Model sponsored in this proceeding.

Verizon's Motion to Compel at 11. This argument cannot be squared either with the law or with the facts.

First, Verizon distorts the law, evincing either a deliberate attempt to distort the meaning of Massachusetts legal precedent, or a profound misunderstanding of administrative law and the Department's role as a reasoned decision maker. As the Supreme Judicial Court has explained, "the requirement of 'reasoned consistency' in *Boston Gas Co.* … means that any change from an established pattern of conduct must be explained." *Robinson* v. *Department of Public Utilities*, 416 Mass. 668, 673 (1993), citing *Boston Gas Co.* v. *Department of Public Utilities*, 367 Mass. 92, 105 (1975). Particular findings by the Department in 1996 based on a particular factual record in the *Consolidated Arbitrations* docket is not "an established pattern of conduct" that must be repeated absent explanation for a change. *See, e.g.*, *Robinson*, 416 Mass. at 673; *Cablevision Systems Corp.* v. *Department of Telecommunications and Energy*, 428 Mass. 436, 439 (1998). To the contrary, the obligation of the Department in a rate setting proceeding is to make findings based on the factual record before it.

Under Verizon's bizarre and novel legal theory, the Department would be obligated to keep all UNE rates unchanged in this proceeding unless it first engaged in "full a[nd] detailed comparison" between every bit of evidence presented in this proceeding and every bit of evidence presented in the *Consolidated Arbitrations* docket over the course of several years of proceedings. *Verizon's Motion to Compel* at 11. That suggestion is ludicrous, as is Verizon's argument that because some other model called Hatfield was not adopted five years ago a different model called HAI cannot be considered now absent some special evidentiary showing and burdensome discovery. To make the same point another way, the cost studies filed by Verizon in this docket differ in a myriad of ways – using different data, different assumptions, different inputs, and different methodologies – from the cost studies previously sponsored by Verizon in the *Consolidated Arbitrations* docket. Verizon has not attempted to catalogue and

explain all of those myriad changes. Under the "reasoned consistency" argument posited in its motion to compel, for this reason alone all of Verizon's new cost studies would have to be rejected by the Department. Once again, Verizon's hypocrisy is patent. It takes one approach in its own affirmative case, and urges a diametrically opposed approach with respect to the costing tools and analysis sponsored by AT&T.

Second, in any case AT&T has already clearly explained the differences between the model submitted in this docket and the very different model submitted five years ago in the *Consolidated Arbitrations* docket. *See* Direct Testimony of Robert A. Mercer ("Mercer Direct") at 30-38; Direct Testimony of John C. Donovan ("Donovan Direct") at 10-13. Dr. Mercer's testimony even explains the steps that HAI has taken to address all of the concerns expressed by the Department in the Consolidated Arbitrations. *See* Mercer Direct at 34-38. AT&T has already demonstrated that HAI 5.2a-MA is wholly different from HAI 2.2, particularly in all of the areas with which the Department once expressed concern. Significantly, not one of the requests at issue in Verizon's motion to compel sought clarification of this testimony.

The further information sought by Verizon about prior versions of Hatfield models does not concern differences between the HAI 5.2a-MA model filed in this proceeding and the five-year old Hatfield Model Version 2.2.2 that was considered by the Department in 1996. Rather, Verizon has asked AT&T to commission new and laborious comparisons to models filed in other jurisdictions, at different times and under widely varying circumstances. Verizon's tortured legal arguments and its misrepresentation of the requirement of reasoned consistency does not have anything to do with the information actually requested by Verizon, or the tremendous burden that Verizon is attempting to impose upon AT&T.

Verizon's brazen attempt to distract the Department from the real issues in this case by distorting and misapplying the concept of "reasoned consistency" should be rejected.

III. AT&T WILL PROVIDE A SUPPLEMENTAL RESPONSE TO VZ-ATT 1-16.

Verizon complains in its motion to compel that although AT&T provided a copy of a study sent to HAI, AT&T failed to explain "how the data was created and the manner in which it was used." *Verizon's Motion to Compel* at 12. In fact, the HAI Inputs Portfolio explains how this study was used. AT&T will file a supplemental response telling Verizon where in the materials it already has to look for this information, and explaining how the data in the study was compiled. AT&T has previously informed Verizon that such a supplemental response will be provided.

IV. VERIZON'S OTHER COMPLAINTS ARE PROCEDURALLY IMPROPER, AND HAVE NO SUBSTANTIVE MERIT.

A. Verizon Made No Real Attempt to Discuss the 21 Other Responses Discussed in its Motion to Compel.

The Department's ground rules for this docket require Verizon to consult with AT&T and attempt to resolve any discovery disputes before it files a motion to compel. *See* Hearing Officer Memorandum of February 9, 2001, at ¶ III.2 ("The parties must first attempt resolution of any discovery dispute before coming to the Department for assistance."). In the present case, Verizon failed to consult meaningfully with AT&T on twenty-one of the information requests that are now the subject of its motion to compel (AT&T's responses to VZ-ATT 1-20, 1-21, 1-23, 1-24, 1-25, 1-26, 1-57, 1-58, 1-59, 1-60, 1-67, 1-82, 1-83, 1-103, 1-130, 2-3, 2-4, 2-6, 2-11, 2-32 and 2-91).

In a letter to AT&T's counsel dated June 18, 2001, Verizon's counsel, Bruce Beausejour, identified a number of AT&T discovery responses that he claimed were incomplete. Though Verizon explained what it felt was wrong with many of AT&T's discovery responses, as to the

twenty-one responses just listed Verizon stated only that Verizon had unspecified "concerns" with them but provided no explanation of what those concerns were. *See* June 18 letter from Bruce Beausejour to Ken Salinger (Attachment B hereto). In response, AT&T noted that, without further explanation from Verizon, AT&T had no way of knowing what these concerns were and could not address them. *See* July 3 letter from Ken Salinger to Bruce Beausejour (Attachment C hereto). AT&T explained that:

> AT&T will also not provide any supplements to the responses that you discuss in the second to last paragraph of your letter. In that paragraph, you claim that Verizon "has concerns" about a number of responses, but do not provide any further explanation. AT&T believes that its original responses to those information requests were both accurate and complete. AT&T has no way of knowing what Verizon's "concerns" may be, and therefore need not and cannot respond to them.

Instead of providing any explanation as to what its specific concerns were, so that AT&T could attempt to address them, Verizon included these twenty-one responses in its motion to compel.

A throw-away line in a letter stating that Verizon has "concerns" about discovery responses, with no explanation, does not constitute a meaningful attempt to resolve a discovery dispute. Verizon's failure to consult with AT&T in an attempt to resolve its discovery disputes is a violation of the Department's ground rules. The Department therefore need not and should not take action on the portions of Verizon's motion that relate to those responses.

B. Even If Verizon Had Meaningfully Consulted With AT&T, Which It Did Not, Verizon's Arguments Concerning The Twenty-One Other Responses Would Still Be Without Merit.

In addition to the fact that Verizon inappropriately failed to meaningfully consult with AT&T prior to moving to compel further responses to the twenty-one requests discussed above, Verizon's arguments concerning why AT&T should be forced to produce further responses lack basis. In each case, as demonstrated below (in the same order that these items are raised in Verizon's motion to compel), AT&T has either made perfectly appropriate objections or has

already provided fully responsive answers. Thus, Verizon's motion regarding these twenty-one responses should be rejected.

1. AT&T has provided a fully responsive answer to VZ-ATT 1-67.

Verizon claims that AT&T has dodged information request VZ-ATT 1-67 by refusing to provide what Verizon describes as a "simple yes or no answer." *See* Motion at 14. Verizon's motion to compel a further response is a waste of the Department's and the parties' time. AT&T's answer is fully responsive, and if Verizon has a follow up question it can and undoubtedly will ask it on cross-examination.

AT&T is not sure why Verizon is complaining about the fact that AT&T provided more than just a "yes" or a "no." Verizon seemingly overlooks the last sentence of its request in VZ-ATT 1-67, where Verizon specifically asked AT&T to "explain [its answer] in detail." If AT&T had only provided a "yes" or "no" answer, Verizon would undoubtedly now be moving to compel because AT&T had failed to explain its answer in detail. Furthermore, sometimes even simple "yes" or "no" responses require explanation. AT&T has properly answered this question.

2. Verizon is not entitled to production of proprietary data that AT&T does not have and is not allowed to provide, but AT&T remains ready to help Verizon make appropriate arrangements to review the data.

In its Motion, Verizon claims that AT&T's responses to seven information requests (VZ-ATT 1-20, 1-21, 1-23, 1-25, 1-26, 1-82, 1-83) are deficient because AT&T did not provide Verizon with copies of certain proprietary or copyrighted materials that AT&T is not legally entitled to provide, but which are commercially available to Verizon. *See Verizon's Motion to Compel* at 13-15.[2] These requests seek access to the geocoding data processed and provided by

[2] Verizon is mistaken in including VZ-ATT 1-20 in this category. AT&T answered that question, which did not call for the production of proprietary data belonging to others.

PNR Associates, Inc., and used to develop inputs to the HAI model. *Id.* at 14. Verizon asks that AT&T "make necessary arrangements [with] its vendors so that the information can be provided." *Id.* at 15.

The facts are that AT&T has stood ready since May 29 to help Verizon obtain access to this data through PNR (now known as TNS), and that this is how access to the PNR data has been handled throughout the country. Indeed, it would be even easier for Verizon to obtain the PNR information now because PNR's successor-in-interest, TNS, has agreed to offer remote electronic access to the relevant materials. If Verizon truly want to see the data, rather than pretend that AT&T was being uncooperative, Verizon could have already done so. Verizon is well aware of these facts, and its motion to compel is disingenuous at best.

The geocoding data at issue here is highly proprietary. AT&T does not itself have the data, and cannot provide it to Verizon. In all other states where the issue of access to the geocoding data has arisen, parties wishing to view the data have had to make arrangements to do so through PNR. For example, in earlier proceedings in both Maine and New Hampshire, AT&T informed Verizon (Bell Atlantic at the time) that it could not turn over these proprietary materials, and that Verizon would need to obtain such information directly from PNR. AT&T then helped make arrangements for Verizon representatives to visit PNR in Pennsylvania to view the data it had requested and to obtain technical information from PNR staff regarding the development of that data. At least two Verizon representatives took advantage of those opportunities in previous Maine and New Hampshire proceedings. In the recent New York UNE cost proceedings, AT&T again explained that the data at issue is commercially available from PNR, and that AT&T would help make arrangements for Verizon to review the data at PNR.

See, e.g., NY PSC Case 98-C-1357, response to BA-ATT/MCI-1003. It appears that in New York Verizon never bothered to avail itself of this opportunity.

In light of these facts, it is disingenuous for Verizon to now express surprise that AT&T cannot directly provide the requested information in Massachusetts.

Furthermore, Verizon's complaint is hypocritical, as Verizon has also refused to provide materials that it claims are available directly to the other parties through alternative means. For example, ATT-VZ 2-41 asks Verizon to "provide a copy of all planning documents, engineering guidelines, manufacturer's specifications and the like that Verizon uses in planning and engineering its interoffice fiber ring network." Verizon responded:

> Verizon MA does not use engineering guidelines for planning and engineering its interoffice fiber ring network. ***Manufacturers specifications can be obtained from the manufacturers themselves***.

See Verizon Response to ATT-VZ 2-41 (emphasis added).

If Verizon truly wanted to view geocoding data through TNS (formerly PNR), it could have done so long ago. Verizon's motion to compel production by AT&T of proprietary data that AT&T does not even have in its possession, custody, or control is without merit.

3. It would be unduly burdensome for AT&T to produce voluminous documents that are readily available to Verizon from the United States Census Bureau.

Verizon also complains about AT&T's responses to VZ-ATT 2-4 and 2-32, because AT&T did not provide documents that are readily available to Verizon from the United States Census Bureau. *See Verizon's Motion to Compel* at 14. The Census Bureau documents at issue are: the "1995 Statistical Abstract of the United States;" the "1995 Common Carrier Statistics;" and the 1990, STF3, "Population and Housing Summary." These Census Bureau documents are almost certainly also available at the Boston Public Library or any other public library with a government documents repository.

Because these documents are quite voluminous in nature, it would be extremely impractical for AT&T to provide copies of them in response to Verizon's information requests. Instead, by informing Verizon as to where it can quickly and easily obtain its own copies of the documents, AT&T has taken a reasonable step to ensure that any party that feels a need to obtain and review these documents can do so. Once again, Verizon could readily have procured these documents by now if it had wanted to.

4. The legal ownership of the HAI 5.2a-MA model is not relevant.

Verizon next claims that AT&T inappropriately refused to respond to questions (VZ-ATT 1-57 through 1-60) concerning the extent to which AT&T or others may release HAI 5.2a-MA. *See Verizon's Motion to Compel* at 15. AT&T's objections to these questions were valid, because there is no way that this information could serve any purpose in this docket. The HAI 5.2a-MA Model has been filed in this docket and is available to the Department and all parties. Questions of who has what ownership stake in this intellectual property, and who has what legal rights to release it, are simply irrelevant to the issues at hand.

5. AT&T provided a fully responsive answer to VZ-ATT 1-24.

Verizon complains that AT&T did not provide a full response to VZ-ATT 1-24. *See* Motion at 16. According to Verizon, AT&T failed "to specify the basis for additions or reductions to census blocks that are made in order to perform the normalization of line counts…" *Id.* That is untrue. AT&T's response referred Verizon to the portions of the Model Description that provide a fully responsive answer to Verizon's question, and AT&T has no idea what further information Verizon is seeking. If Verizon had responded to the July 3 letter from AT&T's counsel with further explanation of what Verizon was seeking in VZ-ATT 1-24, AT&T may have been able to provide Verizon with whatever further information it is still seeking. Because

Verizon failed to do so, however, and because AT&T has already fully responded to the question asked, the Department should not compel any further response to VZ-ATT 1-24.

In addition, the Department should note that many of Verizon's own discovery responses consist entirely of references to portions of Verizon's prefiled testimony or documentation. There is no basis for Verizon to complain that AT&T has done the same thing, especially where AT&T has directed Verizon's attention to the place where Verizon can find the information it claims to be seeking.

6. AT&T provided a fully responsive answer to VZ-ATT 1-103.

Verizon similarly complains that AT&T did not provide a full response to VZ-ATT 1-103. *See Verizon's Motion to Compel* at 15-16. According to Verizon, AT&T failed to identify the members of HAI Associates that were consulted during the determination of the Business Penetration Ratio. As AT&T explained in its response to VZ-ATT 1-103, this ratio was developed over a period of time during numerous conversations among different people. AT&T's response already made it clear that it is not possible for AT&T to provide Verizon with a specific list of everyone who was involved in these conversations and everything that was discussed in them.

7. Information regarding the TICM model has no relevance to these proceedings, and providing information about it would be extremely and unduly burdensome.

Verizon also demands that AT&T identify the "cost of money" used by AT&T years ago in something called the Total Incremental Cost Model ("TICM"). *See Verizon's Motion to Compel* at 16. Request VZ-ATT 1-130 reads as follows:

> Please provide the cost of money used by AT&T in its Total Incremental Cost Model (TICM) as well as the rationale and supporting documentation justifying that value. If this model is no longer used by AT&T, please provide the cost of money when the model was last used by AT&T. If the cost of money used in that

> model varies by state, provide the value and supporting documentation for Massachusetts and for every other state for which separate values were used.

AT&T has not used this model in years, and trying to track down this information would be quite burdensome. As AT&T explained in its response:

> AT&T no longer maintains an operable version of TICM. Use of TICM was discontinued a few years ago and the model was deactivated as part of a larger effort to reduce AT&T's internal operating costs. TICM has been archived and has been completely removed from the large computer server on which it resided. Unlike the HAI 5.2a, which could be produced on a CD-ROM, TICM required approximately 30 gigabytes of storage. Retrieving the model from archives would require locating a server, re-creating an interface for the model and locating personnel who could run the model, all of which would be unduly burdensome. In any event, the TICM model was originally designed to develop incremental costs for providing AT&T long-distance network services – i.e., long-distance POP to POP network. TICM did not provide incremental costs for local network services. Thus, TICM is not relevant to this proceeding, since it did not address costs on an "apples-to-apples" basis with the costs at issue in this proceeding.

Furthermore, Verizon is seeking information regarding an input to a model that has not been put forth by AT&T or any other party in this proceeding. It has no relevance to this docket. AT&T properly objected on the ground that this request is unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence.

8. AT&T provided a fully responsive answer to VZ-ATT 2-3.

Verizon complains that AT&T did not provide a full response to VZ-ATT 2-3. *See Verizon's Motion to Compel* at 16. According to Verizon, it is now seeking to have AT&T produce every document that had anything to do with the development of time estimates for installing drop wires. *Id.* AT&T has already responded that its experts did not rely on any documents in their development of these estimates. *See* Response to VZ-ATT 2-3. Furthermore, the experts' conclusions are fully explained in the model documentation, which Verizon already has.

9. AT&T has provided fully responsive answers to VZ-ATT 2-4 and 2-6.

Verizon also claims that VZ-ATT 2-4 and 2-6 asked for "documents used to determine the distribution and feeder sharing fractions for aerial, buried and underground plant in Massachusetts and the forward-looking operations factor of 50 percent referenced in the Model's Inputs Portfolio" and that AT&T did not provide responsive answers. *See Verizon's Motion to Compel* at 16.

AT&T is unsure of what Verizon is talking about when it refers to VZ-ATT 2-4 in this manner. VZ-ATT 2-4 did not ask for any such information and, in fact, sought U.S. Census Bureau documents, as discussed above.

As for VZ-ATT 2-6, AT&T provided a full explanation for its development of these fractions and has therefore already provided a fully responsive answer.

10. Information regarding inputs that were never used in the HAI 5.2a-MA model is not relevant, and providing it would be extremely and unduly burdensome.

Finally, Verizon complains that AT&T's response to VZ-ATT 2-11 is incomplete because AT&T failed to provide model inputs that were never used in AT&T's model. *See Verizon's Motion to Compel* at 18. Verizon claims that AT&T had a duty to provide Verizon with an apparently exhaustive list of every single input that was ever considered in the development of the model, regardless of whether it was used in the model. *Id.* Verizon's claim is ludicrous for at least two reasons. First, there is simply no way that inputs which were never used in AT&T's model could be relevant to this proceeding. If the inputs had been relevant, they would have been used in the model. Second, it would be extremely burdensome, if not impossible, for AT&T to attempt to determine every possible input that may have at one point in time or another been discussed or considered and to provide Verizon with information concerning each of those inputs. It simply cannot be done.

In addition, Verizon is once again being hypocritical. In ATT-VZ 4-29, AT&T sought not only access line forecasts used in Verizon's cost calculations, but also other line forecasts or trends used elsewhere in Verizon. In a letter dated July 10, 2001, Verizon asserted that such other forecasts are not relevant because they were not used in its cost calculations or otherwise relied upon in Verizon's direct case, and that it would be unduly burdensome for Verizon even to search for such information. It is absurd that on July 5 Verizon filed its motion to compel a further response to VZ-ATT 2-11, and only five days later takes the opposite position to justify its refusal to answer an AT&T discovery request.

Conclusion.

AT&T has fully complied with its duties to produce discovery responses that will help the Department and all parties to these proceedings fairly evaluate Verizon's cost of providing UNEs using a forward-looking network. Verizon's motion is based entirely on unsupportable arguments, some of which are contradicted by Verizon's behavior in its own responses to discovery requests, and which concern requests that no relevance to the real issues in this proceeding. Furthermore, attempting to produce the additional information sought by Verizon would be extremely and unduly burdensome.

AT&T respectfully asks the Department to reject Verizon's motion to compel.

Respectfully submitted,

_____

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